



STATE OF CONNECTICUT


DEPARTMENT OF REVENUE SERVICES



OFFICE OF THE
COMMISSIONER

March 15, 2010

TO: The Honorable Eileen Daily, Co-Chair
The Honorable Cameron Staples, Co-Chair
Members of the Finance, Revenue and Bonding Committee

FROM: Richard D. Nicholson, Commissioner 
Department of Revenue Services

RE: Senate Bill 433, An Act Concerning the Burden of Proof in Tax Appeals.

I would strongly urge your reconsideration of *Senate Bill 433, An Act Concerning the Burden of Proof in Tax Appeals*, which makes a fundamental change to the burden of proof in state tax appeals. Essentially this proposal would reverse the Connecticut Supreme Court which has determined that, in factual disputes, the taxpayer should be required to show by clear and convincing evidence that the commissioner's factual premise cannot support the assessment. Currently, when a taxpayer appeals an assessment to Court, the taxpayer must present evidence showing the Commissioner's assessment is incorrect. Under well-established case law, the Commissioner's assessment of tax is presumed to be correct. The Connecticut Supreme Court recognized that, since records and other information are in the control of the taxpayer, the clear and convincing burden is appropriate. Simply put, it is the taxpayer and the taxpayer alone who possesses the knowledge and proof to disprove the correctness of the Commissioner's assessment. Since this proposal will fundamentally change how tax appeals are tried and how they are decided, the Department cannot support this bill.